

## VOTING SYSTEMS AND PROCEDURES PANEL

CALIFORNIA SECRETARY OF STATE'S OFFICE  
1500 11<sup>TH</sup> STREET · SACRAMENTO, CA 95814  
(916) 653-7244

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STATE OF CALIFORNIA

March 26, 2004

Sally McPherson  
Registrar of Voters  
County of San Diego  
5201 Ruffin Road, Suite I  
San Diego, CA 92123-1693

Re: Request for Approval of New Software

Dear Ms. McPherson:

I write in response to your most recent letter, dated March 26, 2004, concerning your request that we approve your use of an unqualified, uncertified and untested version of GEMS software to process certain provisional ballots cast in the March 2, 2004 election. Given that there has been no review of this software, we cannot approve your request. Should the GEMS software undergo federal testing, and receive federal qualification, we will consider a renewed request to test and certify that software for use in California.

Finally, in your March 25, 2004 letter to me, you informed us that you are proceeding with the processing of the provisional ballots in question by utilizing the certified version of GEMS. As you note, both Kern and San Joaquin counties have also chosen to follow this approach rather than seek to use untested and uncertified GEMS software.

Sincerely,

Mark L. Kyle  
Undersecretary

cc: John Mott-Smith  
Robert J. Urosevich